IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2006

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THE HON'BLE MR.JUSTICE P.JYOTHIMANI

Writ Petition No.33393 of 2006

M/s.United Bleachers Limited
rep. by its Director
Nellithurai Road, P.B.No.12,
Mettupalayam, Coimbatore District .. Petitioner

vs.

The Regional Provident Fund Commissioner
P.B.No.3875, Dr. Balasundaram Road
Coimbatore - 641 018 .. Respondent

This Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari calling for the records relating to the order of the respondent in his Ref.No.TN/CBE/PDC/510 dated 5.7.2006 and the consequential order in Ref.No.RN/CBE/PDC/510/C.Cir-13/2006 dated 24.7.2006 and to quash the same.

For petitioner : Mr.R.Gandhi
Senior Counsel for
Mr.R.G.Narendhiran

For respondent : Mr.K.Ramu

O R D E R

This writ petition is filed against the order of the respondent dated 5.7.2006 and consequential order dated 24.7.2006 under which the penal damages have been claimed in respect of remittance of the Provident Fund Contribution belatedly.

2. Even though Mr.R.Gandhi, learned Senior Counsel for the petitioner would contend that the matter is pending before the B.I.F.R. and the period for which the damages are claimed under the impugned order are not covered under the B.I.F.R. since the petitioner-company has been closed, admittedly an application was filed before the Central Provident Commissioner, New Delhi on

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21.5.2003 by the petitioner claiming exemption from levying damages which is still pending. Learned senior counsel appearing for the petitioner would further submit that the Central Provident Fund Commissioner, New Delhi, before whom the application dated 21.5.2003 for the purpose of exemption from demanding damages is pending, may be directed to consider and pass orders.

3. I have heard Mr.R.Gandhi learned Senior Counsel for the petitioner and also Mr.K.Ramu, learned counsel for the respondent, who has taken notice for the respondent.

4. Considering the facts and circumstances, admittedly the application for claiming exemption from damages is pending before the Central Provident Fund Commissioner, New Delhi, which has been filed through the respondent herein, I am of the considered view that to meet the ends of justice, the Central Provident Fund Commissioner, New Delhi should be directed to dispose of the said application and in the meantime, the respondent should not proceed with the impugned order.

5. In view of the same, after hearing the learned senior counsel for the petitioner and the learned counsel for the respondent, the Central Provident Fund Commissioner, New Delhi is directed to consider the application of the petitioner dated 21.5.2003, which was filed through the respondent, and pass appropriate orders in respect of granting exemption regarding payment of damages and such order shall be passed within a period of four weeks from the date of receipt of a copy of this order. It is made clear that till the order is passed as directed above, the respondent shall not proceed with the impugned order.

6. The writ petition is disposed of in the above terms. No costs. Consequently, connected M.P.No.1 of 2006 is closed.

सत्यमेव जयते

Sd/
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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To

1.The Regional Provident Fund Commissioner
P.B.No.3875, Dr. Balasundaram Road
Coimbatore-641 018.

2.The Central Provident Fund Commissioner
New Delhi.

+1cc to MR.R.G.Narendhiran, Advocate Sr 42833

+1cc to Mr.K.Ramu, Advocate Sr 42911

SMV (CO)
km/26.9.

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